

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

_____	)	
STEVEN R. KINCAID,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 04-11522-WGY
	)	
	)	
BANK OF AMERICA	)	
CORPORATION,	)	
	)	
Defendant.	)	
_____	)	

PLAINTIFF'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS  
EVIDENCING THE FACTUAL BASIS AND REASONS  
FOR DEFENDANT'S DECISION TO ASK ALEC KOTOPOULOS TO RESIGN

Pursuant to Fed.R.Civ.P. 37(a), plaintiff hereby moves for an order:

1. compelling defendant to produce, within three business days of the date of the order,
  - a. the memorandum written by Erin McCarthy described by Alec Kotopoulos in his supplemental deposition on October 17, 2005; and
  - b. any and all documents that evidence, discuss, describe, mention or refer to: (i) defendant's decision to ask Alec Kotopoulos to resign; (ii) the factual basis for that decision; or (iii) the reasons for that decision; and

2. requiring defendant to pay plaintiff the reasonable expenses incurred in making this Motion, including attorney's fees.

The grounds for this Motion are set out in the accompanying Memorandum.

Dated: December 27, 2005

Respectfully submitted,



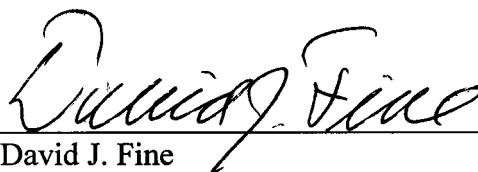
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Attorney for Plaintiff

Certificate of Service

I hereby certify that I have this day served the foregoing by causing true copies thereof to be transmitted electronically and mailed, first class postage prepaid, to Siobhan M. Sweeney, Esq., Edwards & Angell, LLP, 101 Federal Street, Boston, Massachusetts 02110 and Mark A. Pogue, Esq., Edwards & Angell, LLP, 2800 Financial Plaza, Providence, Rhode Island, 02903, attorneys for defendant.

Dated: December 27, 2005



David J. Fine